

# TITLE 23

## Health and Safety

### CHAPTER 23-25

#### Pesticide Control

##### SECTION 23-25-1

**§ 23-25-1 Title.** – This chapter shall be known as the "Pesticide Control Act".

**§ 23-25-2 Enforcing official.** – The provisions of this chapter shall be administered by the director of environmental management of the state, referred to as the director.

**§ 23-25-3 Declaration of purpose.** – The purpose of this chapter is to regulate, in the public interest, the labeling, distribution, sale, storage, transportation, use and application, and disposal of pesticides as defined in this chapter. The general assembly finds that pesticides are valuable to our state's agricultural production and to the protection of human life and the environment from insects, rodents, weeds, and other forms of life which may be pests; but it is essential to the public health and welfare that they be regulated to prevent adverse effects on human life and the environment. New pesticides are continually being discovered, synthesized, or developed which are valuable for the control of pests and for use as defoliants, desiccants, and plant regulators. Those pesticides may be ineffective, may cause injury to man, or may cause unreasonable adverse effects on the environment if not properly used. Pesticides may injure human life or animals, either by direct poisoning or by gradual accumulation of pesticide residues in the tissue. Crops or other plants may also be injured by their improper use. The drifting or washing of pesticides into streams, lakes, or other bodies of water may cause appreciable damage to aquatic life. A pesticide applied for the purpose of killing pests in a crop which is not itself injured by the pesticide, may drift and injure other crops or non-target organisms with which it comes in contact. It is deemed necessary to provide for regulation of pesticides.

**§ 23-25-4 Definitions.** – As used in this chapter:

(1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant.

(2) "Adulterated" applies to any pesticide if its strength or purity falls below the professed standards of quality as expressed on its labeling under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted.

(3) "Agricultural commodity" means any plant, or part of plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by humans or animals.

(4) "Animal" means all vertebrate and invertebrate species, including, but not limited to, man and other mammals, birds, fish, and shellfish.

(5) "Beneficial insects" means those insects which, during their life cycle, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial.

(6) "Board" means the pesticide advisory board as provided for under § 23-25.2-3.

(7) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant with or without causing abscission.

(8) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(9) "Device" means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than humans and other than bacteria, virus, or other micro-organism on or in living humans or other living animals) but not including equipment used for the application of pesticides when sold separately from it.

(10) "Director" means the director of environmental management.

(11) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver pesticides in this state.

(12) "Environment" includes water, air, land, and all plants and humans and other living animals in it, and the interrelationships which exist among these.

(13) "EPA" means the United States Environmental Protection Agency.

(14) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq., and other legislation supplementary to it and amendatory of it.

(15) "Fungi" means all nonchlorophyll-bearing thallophytes (that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those in or on living humans or other living animals, and except those in or on processed food, beverages, or pharmaceuticals.

(16) "Highly toxic pesticide" means any pesticide determined to be a highly toxic pesticide under the authority of § 25(c)(2) of FIFRA, 7 U.S.C. § 136w(c)(2), or by the director under § 23-25-9(a)(2).

(17) "Imminent hazard" means a situation which exists when the continued use of a pesticide during the time required for cancellation proceedings pursuant to § 23-25-8 would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the secretary of the interior under 16 U.S.C. § 1531 et seq.

(18) "Inert ingredient" means an ingredient which is not an active ingredient.

(19) "Ingredient statement" means:

(i) Statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide; and

(ii) When the pesticide contains arsenic in any form, the ingredient statement shall also include percentages of total and water soluble arsenic, each calculated as elemental arsenic.

(20) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms, as for example, moths, beetles, bugs, bees, flies, and their immature stages, and to other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

(21) "Integrated Pest Management (IPM)" refers to a method of pest control that uses a systems approach to reduce pest damage to tolerable levels through

a variety of techniques, including natural predators and parasites, genetically resistant hosts, environmental modifications and, when necessary and appropriate, chemical pesticides. IPM strategies rely upon nonchemical defenses first and chemical pesticides second.

(22) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

(23) "Labeling" means the label and all other written, printed, or graphic matter:

(i) Accompanying the pesticide or device at any time; or

(ii) To which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of EPA, the United States departments of agriculture and interior, and the department of health and human services; state experiment stations; state agricultural colleges; and other federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(24) "Land" means all land and water areas, including airspace, all plants, animals, structures, buildings, contrivances, and machinery appurtenant to it or situated on it, fixed or mobile, including any used for transportation.

(25) "Nematode" means invertebrate animals of the phylum Nematelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

(26) "Plant regulator" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for altering the behavior of plants or the produce of these but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments. Also, the term "plant regulator" is not required to include any of those nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health, and propagation of plants, are not for pest destruction and are nontoxic and nonpoisonous in the undiluted packaged concentration.

(27) "Permit" means a written certificate, issued by the director, authorizing the purchase, possession, and/or use of certain pesticides or pesticide uses defined in subdivisions (34) and (35) of this section.

(28) "Person" means any individual, partnership, association, fiduciary, corporation, governmental entity, or any organized group of persons whether incorporated or not.

(29) "Pest" means:

(i) Any insect, rodent, nematode, fungus, or weed; and

(ii) Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living humans or other living animals) which the director declares to be a pest under § 23-25-9(a)(1).

(30) "Pesticide" means:

(i) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; and

(ii) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(31) "Pesticide dealer" means any person who distributes within the state any pesticide product classified for restricted use by EPA or limited use by the director.

(32) "Private applicator" means any person who uses or supervises the use of any pesticide for purposes of producing any agricultural commodity on land owned or rented by him or her or his or her employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on land of another person.

(ii) "Certified private applicator" means any private applicator who is certified under § 23-25-14 as authorized to purchase, acquire, apply, or supervise the application of any pesticide classified for restricted use by EPA or limited use by the director.

(iii) "Commercial applicator" means any person (whether or not that person is a private applicator with respect to some uses), including employees of any federal, state, county or municipal agency, department, office, division, section, bureau, board, or commission, who applies or supervises the application of any pesticide for any purpose or on any property other than as provided by the definition of "private applicator".

(iv) "Certified commercial applicator" means any commercial applicator who is certified under § 23-25-13 as authorized to purchase, acquire, apply, or supervise the application of a pesticide classified for restricted use by EPA or limited use by the director.

(v) "Licensed commercial applicator" means any commercial applicator who is licensed under § 23-25-12 as authorized to use or supervise the use of any

pesticide not classified for restricted use by EPA or limited use by the director on land not owned or rented by him or her.

(33) "Protect health and the environment" means protection against any unreasonable adverse effects on the environment.

(34) "Registrant" means a person who has registered any pesticide pursuant to the provisions of this chapter.

(35) "Restricted use pesticide" means a pesticide or pesticide use that is classified for restricted use by the administrator of EPA, or under § 23-25-6(h).

(36) "State limited use pesticide" means any pesticide or pesticide use which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions to prevent unreasonable adverse effects on the environment including humans, land, beneficial insects, animals, crops, and wildlife, other than pests.

(37) "Under the direct supervision" means that on-site supervision of any pesticide application by an appropriately certified or licensed applicator who is responsible for the application and is capable of dealing with emergency situations which might occur.

(38) "Unreasonable adverse effects on the environment" means any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(39) "Weed" means any plant which grows where not wanted.

(40) "Wildlife" means all living things that are neither human nor, as defined in this chapter, pests, including but not limited to mammals, birds, and aquatic life.

**§ 23-25-5 Misbranded.** – The term "misbranded" applies:

(1) To any pesticide or device designated under § 23-25-9(b)(4):

(i) If its labeling bears any statement, design, or graphic representation relative to it or to its ingredients which is false or misleading in any particular;

(ii) If it is an imitation of or is distributed under the name of another pesticide;

(iii) If any word, statement, or other information required to appear on the label or labeling is not prominently placed on it with any conspicuousness (as compared with other words, statements, designs, or graphic matter in the

labeling) and in any terms as to render it unlikely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(2) To any pesticide:

(i) If the labeling does not contain a statement of the EPA use classification under which the product is registered;

(ii) If the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and, if complied with, together with any requirements imposed under § 3(d) of FIFRA, 7 U.S.C. § 136a(d), are not adequate to protect health and the environment;

(iii) If the label does not bear:

(A) Name, brand, or trademark under which the pesticide is distributed;

(B) An ingredient statement on that part of the immediate container (and on the outside container and wrapper of the retail package, if there is one, through which the ingredient statement on the immediate container cannot be clearly read) which is presented or displayed under customary conditions of purchase; provided, that the ingredient statement may appear prominently on another part of the container, as permitted pursuant to § 2(q)(2)(A) of FIFRA, 7 U.S.C. § 136(q)(2)(A), if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase;

(C) A warning or caution statement which may be necessary and which, if complied with together with any requirements imposed under § 3(d) of FIFRA, 7 U.S.C. § 136a(d), would be inadequate to protect the health and environment;

(D) The net weight or measure of the content;

(E) The name and address of the manufacturer, registrant, or person for whom manufactured; and

(F) The EPA registration number assigned to each establishment in which it was produced and the EPA registration number assigned to the pesticide, if required by regulations under FIFRA.

(iv) If the pesticide contains any substance or substances in quantities highly toxic to humans, unless the label bears, in addition to other label requirements:

(A) The skull and crossbones;

(B) The word "POISON" in red prominently displayed on a background of distinctly contrasting color; and

(C) A statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

(v) If the pesticide container does not bear a registered label.

**§ 23-25-6 Registration.** – (a) Every pesticide which is distributed in the state shall be registered with the director subject to the provisions of this chapter and shall be categorized for registration purposes. These categories shall be: "consumer protection and health benefits products" which means all disinfectants, sanitizers, germicides, biocides and other pesticides labeled for use directly on humans or pets or in or around household premises and "agricultural and other pesticides," which means restricted-use pesticides and other pesticides that are not consumer protection and health benefits products. That registration shall be renewed annually prior to January 31; provided, that registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at the plant or warehouse as a constituent part to make a pesticide which is registered under the provisions of this chapter or if the pesticide is distributed under the provisions of an experimental use permit issued under § 23-25-7 or an experimental use permit issued by EPA.

(b) The applicant for registration shall file a statement with the director which shall include:

(1) The name and address of the applicant and the name and address of the person whose name will appear on the label, other than the applicant's;

(2) The name of the pesticide;

(3) Other necessary information required for completion of the department of environmental management's application for registration form;

(4) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in FIFRA.

(c) The director, when he or she deems it necessary in the administration of this chapter, may require the submission of the complete formula of any pesticide, including the active and inert ingredients.

(d) The director may require a full description of the tests made and the results of the tests upon which the claims are based on any pesticide not registered pursuant to § 3 of FIFRA, 7 U.S.C. § 136a, or on any pesticide on which



restrictions are being considered. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last reregistered.

(e) The director may prescribe other necessary information by regulation.

(f) The applicant desiring to register a pesticide shall pay an annual registration fee of fifty dollars (\$50.00) to the general treasurer for each pesticide registered for the applicant which shall be credited by the general treasurer to the pesticide relief fund. Annually on November 1 the general treasurer shall notify the director of the amount of funds contained in the pesticide relief fund. If the pesticide relief fund shall exceed one million dollars (\$1,000,000) on that date, the annual registration fee for the next following year commencing December 1 shall be twenty-five dollars (\$25.00) which shall become part of the general fund. All registrations shall expire on November 30, of any one year, unless sooner cancelled; provided, that a registration for a special local need pursuant to this section which is disapproved by the administrator, EPA, shall expire on the effective date of the administrator's disapproval.

(g) Any registration approved by the director and in effect on the 31st day of January, for which a renewal application has been made and the proper fee paid, shall continue in full force and effect until any time that the director notifies the applicant that the registration has been renewed, or denied, in accord with the provisions of § 23-25-8. Forms for re-registration shall be mailed to registrants at least thirty (30) days prior to the due date.

(h) Provided the state of Rhode Island is certified by the administrator of EPA to register pesticides pursuant to § 24(c) of FIFRA, 7 U.S.C. § 136v(c), the director shall require the information set forth under subsections (b), (c), (d), and (e) and shall, subject to the terms and conditions of the EPA certification, register the pesticide if he or she determines that:

(i) Its composition is such as to warrant the proposed claims for it;

(ii) Its labeling and other material required to be submitted comply with the requirements of this chapter;

(iii) It will perform its intended function without unreasonable adverse effects on the environment;

(iv) When used in accordance with widespread and commonly recognized practice, it will not generally cause unreasonable adverse effects on the environment; and

(v) A special local need for the pesticide exists.

(2) Prior to registering a pesticide for a special local need, the director shall classify the use of the pesticide for general or restricted use in conformity with § 3(d), 7 U.S.C. § 136a(d), of FIFRA; provided, that the director shall not make any lack of essentiality a criterion for denying registration of any pesticide. Where two (2) pesticides meet the requirements of this subdivision, one should not be registered in preference to the other.

(3) The director may develop and promulgate any other requirements by regulation that are necessary for the state plan to receive certification from EPA.

**§ 23-25-6.1 Registration fee – Surcharge.** – In addition to the annual registration fee of fifty dollars (\$50.00) as required by § 23-25-6, an additional fifty dollar (\$50.00) registration surcharge fee shall be imposed upon each pesticide to be sold or used within the state. The registration surcharge fee shall be deposited as general revenues.

**§ 23-25-7 Experimental use permits.** – (a) Provided the state is authorized by the administrator of EPA to issue experimental use permits, the director may:

(1) Issue an experimental use permit to any person applying for an experimental use permit, if he or she determines that the applicant needs the permit in order to accumulate information necessary to register a pesticide under § 23-25-6(h). An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.

(2) Refuse to issue an experimental use permit, if he or she determines that issuance of the permit is not warranted or that the pesticide applications to be made under the proposed terms and conditions may cause unreasonable adverse effects on the environment.

(3) Prescribe terms, conditions, and period of time for the experimental use permit, which shall be under the supervision of the director.

(4) Revoke or modify any experimental use permit, at any time, if he or she finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

(b) The director may develop and promulgate any other requirements by regulation that are necessary for the state plan to receive that authorization from EPA.

(c) The director may limit or prohibit the use of any pesticide for which an experimental use permit has been issued by EPA, pursuant to § 5(a) of FIFRA, 7 U.S.C. § 136c(a), and which the director finds may cause unreasonable adverse effects on the environment.

**§ 23-25-8 Refusal to register – Cancellation – Suspension – Legal recourse.**

– (a) Provided the state is certified by the administrator of EPA to register pesticides formulated to meet special local needs, the director shall consider the following for refusal to register, for cancellation, for suspension, or for legal recourse for those pesticides:

(1) If it appears to the director that an application for registration cannot be granted pursuant to § 23-25-6(h) and any regulations issued under this section, he or she shall notify the applicant of the manner in which the pesticide, labeling or other material required to be submitted fails to comply with the provisions of this chapter or any regulations under this section so as to afford the applicant an opportunity to make the necessary corrections. If, upon receipt of the notice, the applicant does not make the required changes, the director may refuse to register the pesticide. The applicant may request a hearing as provided for in the Administrative Procedures Act, chapter 35 of title 42.

(2) When the director determines that a pesticide or its labeling does not comply with the provisions of this chapter or the regulations adopted under this chapter or when necessary to prevent unreasonable adverse effects on the environment, he or she may cancel the registration of a pesticide or change the classification of a pesticide after a hearing in accordance with the provisions of the Administrative Procedures Act, chapter 35 of title 42.

(3) When the director determines that there is an imminent hazard, he or she may, on his or her own motion, suspend the registration of a pesticide in conformance with the provisions of the Administrative Procedures Act, chapter 35 of title 42. Hearings shall be held with the utmost possible expedition.

(4) Any person who will be adversely affected by the order in this section may obtain judicial review of this order by filing in the superior court, within sixty (60) days after entry of the order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be immediately transmitted by the clerk of the court to the director and then the director shall file in the court the record of the proceedings on which he or she based his or her order. The court shall have jurisdiction to affirm or set aside the order complained of in whole or in part. The findings of the director with respect to questions of fact shall be sustained if supported by substantial evidence when considered on the record as a whole. Upon application, the court may remand the matter to the director to take further testimony if there are reasonable grounds for the failure to adduce that evidence in the prior hearing. The director may modify his or her findings and his or her order by reason of the additional evidence taken and shall file the additional record and any modification of the findings or order with the clerk of the court.

(b) If the director determines that any federally registered pesticide with respect to the use of the pesticide within the state:

(1) Does not warrant the claims for it; or

(2) Might cause unreasonable adverse effects on the environment; he or she may refuse to register the pesticide as required in § 23-25-6, or if the pesticide is registered under § 23-25-6, the registration may be cancelled or suspended as provided in subsection (a) of this section. If the director believes the pesticide does not comply with the provisions of FIFRA or the regulations adopted under it, he or she shall advise EPA of the manner in which the pesticide labeling or other material required to be submitted fails to comply with the provisions of FIFRA and suggest necessary corrections.

**§ 23-25-9 Authority of director – Determinations – Rules and regulations – Restricted use and limited use of pesticides and uniformity.** – (a) The director is authorized after due notice and an opportunity for a hearing:

(1) To declare as a pest any form of plant or animal life (other than humans and other than bacteria, viruses, and other micro-organisms on or in living humans or other living animals) which is injurious to health or the environment;

(2) To determine whether pesticides registered under the authority of § 24(c) of FIFRA, 7 U.S.C. § 136v(c), are highly toxic to humans. The definition of highly toxic, as defined in title 40, Code of Federal Regulations 162.8, as issued or amended, shall govern the director's determination; and

(3) To determine pesticides and quantities of substances contained in pesticides which are injurious to the environment. The director shall be guided by EPA regulations in this determination.

(b) The director is authorized after due notice and a public hearing as provided for in the Administrative Procedures Act, chapter 35 of title 42, to make appropriate regulations where those regulations are necessary for the enforcement and administration of this chapter, including but not limited to regulations providing for:

(1) The collection, examination, and reporting of samples of pesticides or devices pursuant to § 23-25-19;

(2) The safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers;

(3) Labeling requirements of all pesticides required to be registered under provisions of this chapter; provided, that the regulations shall not impose any requirements for federally registered labels in addition to or different from those required pursuant to FIFRA;

(4) Specifying classes of devices which shall be subject to the provisions of § 23-25-5(1);

(5) Prescribing methods to be used in the application of pesticides where the director finds that these regulations are necessary to carry out the purpose and intent of this chapter. The regulations may relate to the time, place, manner, methods, materials, and amounts and concentrations in connection with the application of the pesticide, may restrict or prohibit use of pesticides in designated areas during specified periods of time, and shall encompass all reasonable factors which the director deems necessary to prevent damage or injury by drift or misapplication to: plants, including forage plants, on adjacent or nearby lands; wildlife in the adjoining or nearby areas; fish and other aquatic life in waters in reasonable proximity to the area to be treated; and humans, animals, or beneficial insects.

(6) In issuing the regulations referred to in subdivision (5) of this subsection, the director shall give consideration to pertinent research findings and recommendations of other agencies of the state, the federal government, or other reliable sources. The director may by regulation require that notice of a proposed application of a pesticide be given to the public, if he or she finds that the notice is necessary to carry out the purpose of this chapter.

(7) Prescribing regulations requiring any pesticide registered for special local needs to be colored or discolored if he or she determines that the requirement is feasible and is necessary for the protection of health and the environment. The regulations promulgated by EPA pursuant to § 25(c)(5) of FIFRA, 7 U.S.C. § 136w(c)(5), shall govern this determination.

(8) Prescribing regulations establishing standards for the packages, containers, and wrappings of pesticides registered for local needs. The regulations shall be consistent with the regulations promulgated by EPA pursuant to § 25(c)(3) of FIFRA, 7 U.S.C. § 136w(c)(3).

(c) For the purpose of uniformity and in order to enter into cooperative agreements, the director may:

(1) In addition to those "restricted use pesticides" classified by the administrator of EPA, the director may also, by regulation, after a public hearing following due notice, classify a pesticide as a "state limited use pesticide" for the state of Rhode Island. If the director determines that the pesticide (when applied in accordance with its directions for use, warnings, and cautions, and for uses for which it is registered) may cause without additional restrictions, unreasonable adverse effects on the environment, including injury to the applicator or other persons because of acute dermal or inhalation toxicity of the pesticide, the pesticide shall be applied only by or under the direct supervision of a certified applicator, or be subject to any other restrictions as the director may determine.

These other restrictions may include, but are not limited to, the conditions of use as provided in subdivision (b)(5) of this section for "state limited use pesticides", may require a permit for the purchase, possession, and application of pesticides labeled as "state limited use pesticides", and may further require that application of that pesticide be only under the direct supervision of the director.

(2) Adopt regulations in conformity with the primary pesticide standards, particularly as to labeling and registration requirements, as established by EPA or other federal or state agencies.

(d) Regulations adopted under this chapter shall not permit any pesticide use which is prohibited by FIFRA and regulations or orders issued under it.

(e) Regulations adopted under this chapter as to certified applicators of "restricted use pesticides" as designated under FIFRA and regulations adopted as to experimental use permits as authorized by FIFRA shall not be inconsistent with the requirements of FIFRA and regulations promulgated under it.

(f) In order to comply with § 4 of FIFRA, 7 U.S.C. § 136b, the director is authorized to make any reports to the EPA in any form and containing any information that the agency may from time to time require.

**§ 23-25-10 Applicator categories for certification – Standards.** – (a) The director shall adopt applicator categories established by EPA by regulation and may establish additional categories and subcategories for certification necessary for the administration and enforcement of this chapter. Separate subcategories may be specified as to ground, aerial, or manual methods used to apply pesticides or to the use of pesticides to control insects, plant diseases, rodents, or weeds. Each category or subcategory shall be subject to separate testing procedures and requirements; provided, that no person shall be required to pay an additional fee if that person desires to be certified in more than one category or subcategory.

(b) The director, in promulgating regulations under this chapter, shall adopt or prescribe standards of competency for the certification of applicators which are at least equal to those established by EPA. Those standards may relate to the use and handling of pesticides or to the use and handling of the pesticide or class of pesticides covered by the individual's certification and shall be relative to the hazards involved. In determining standards, the director shall consider the characteristics of the pesticide formulation such as: the acute dermal and inhalation toxicity; the persistence, mobility, and susceptibility to biological concentration; the use experience which may reflect an inherent misuse or an unexpected good safety record which does not always follow laboratory toxicological information; the relative hazards of patterns of use such as granular soil applications, ultra low volume of dust aerial applications, or air blast sprayer applications; and the extent of the intended use.

**§ 23-25-11 Prohibitions for applicators.** – (a) No person shall use or supervise the use of any "restricted use pesticide" which is restricted to use by certified applicators pursuant to § 23-25-9 without first complying with the certification requirements pursuant to § 23-25-13 and any other restrictions as determined by the director as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons, for that specific pesticide use; provided, that a competent person may make an application under the direct supervision of a certified applicator.

(b) No person shall use or supervise the use of any "state limited use pesticide" which is restricted to use by certified applicators pursuant to § 23-25-9 without first complying with the certification requirements pursuant to § 23-25-13 or 23-25-14 and any other restrictions as determined by the director as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons, for that specific pesticide use; provided, that a competent person may make an application under the direct supervision of a certified applicator.

(c) No commercial applicator shall use or supervise the use of any pesticide on land without first becoming a licensed commercial applicator under § 23-25-12 or a certified applicator under § 23-25-13 and regulations adopted under these sections, unless he or she is making the application under the direct supervision of a licensed commercial applicator or a certified commercial applicator; provided, that a commercial applicator applying or supervising the application of a pesticide, not classified as a restricted use pesticide or state limited use pesticide, on land owned or rented by him or her or his or her employer need not comply with the requirements under § 23-25-12 or 23-25-13.

**§ 23-25-12 Licenses for commercial applicators – Rules and regulations.** –

(a) No commercial applicator shall apply any pesticide classified for general use by EPA or the director unless that application is by or under the direct supervision of a person certified under § 23-25-13 or licensed under this section; provided, that the application may be made without compliance with § 23-25-13 or this section on land owned or rented by the applicator or his or her employer.

(b) The director is authorized to adopt rules and regulations, including but not limited to regulations:

(1) Establishing procedures for filing a license application, applicant qualifications, license classifications if necessary, standards, and the scope and types of examinations necessary to carry out the intent of this chapter;

(2) Establishing license fees not to exceed thirty dollars (\$30.00);

(3) Establishing the term during which a license remains valid (unless suspended or revoked for cause), expiration dates, credentials, and requirements for renewal (which may include reexamination if deemed necessary);

(4) Enabling the transfer of existing licenses to classifications established under this section with or without re-examination;

(5) Establishing limits of liability covering the applicant's spraying operations;

(6) Requiring the display of a decal, indicating that the applicant has met the requirements of this chapter, in a prominent place on any vehicle used in the applicant's spraying operations;

(7) Prescribing exceptions for utility and other employees who are not normally involved in pesticide applications but who may find it necessary when performing their normal tasks to use a general use pesticide to protect themselves from attacks by wasps, hornets, or other biting or stinging insects.

(c) If the director does not qualify an applicant for a license or renewal or suspends or revokes a license for any violation under this chapter, the director shall inform the applicant in writing of the reasons for revocation and, if requested, provide opportunity for a hearing before the director.

### **§ 23-25-13 Certification of commercial applicators – Renewal –**

**Regulations.** – (a) No commercial applicator shall purchase, acquire, possess, apply, or supervise the application of any pesticide classified for use only by or under the direct supervision of a certified applicator by EPA or by the director without first becoming certified under this section and regulations adopted under this section, except that the pesticide purchase, acquisition, possession, or application may be made without certification if done under the direct supervision of a certified applicator.

(b) The director is authorized to adopt regulations, including but not limited to regulations:

(1) Establishing procedures for filing an application for certification and determining prior experience and qualifications of applicants, their proposed operations, categories, and subcategories, or special pesticide uses for which the applicant wishes to qualify for certification, and setting annual expiration dates and type of documentation verifying certification if qualified;

(2) Requiring written examinations and, as necessary, other types of examinations designed to enable the applicant to demonstrate his or her knowledge, in accordance with the standards established under § 23-25-10, of pesticides and their effects, and his or her competency to handle and use the



restricted use and/or limited use pesticides he or she may apply under the categories, subcategories, or special uses for which he or she is being examined;

(3) Establishing an annual certification fee not to exceed forty-five dollars (\$45.00) and requiring certified commercial applicators to keep records of their purchase and use of restricted use and/or limited use pesticides;

(4) Establishing limits of liability covering the applicant's spraying operations;

(5) Requiring the display of a decal, indicating that the applicant has met the requirements of this chapter, in a prominent place on any vehicle used in the applicant's spraying operations.

(c) If the director finds the applicant qualified to apply pesticides in the categories, subcategories, or special uses he or she has applied for, the director shall issue a certified commercial applicator's certificate limited to the categories for which he or she is qualified which shall expire on an annual expiration date as determined by regulation unless it has been revoked or suspended prior to the expiration by the director for cause. The director may limit the certificate to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a certificate or renewal is not granted as applied for, the director shall inform the applicant in writing of the reasons for not granting it and, if requested, provide opportunity for a hearing before the director.

(d) The director shall send a renewal application to each certified commercial applicator at least thirty (30) days prior to the expiration date, and the director may renew any applicant's certification under the classification(s) for which the applicant is certified subject to reexamination or other requirements imposed by the director by regulation to ensure that the applicator continues to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

(e) Certified commercial applicators who in any year fail to file a renewal application, even though they did not receive a mailed renewal application, prior to an expiration date established by regulation shall lose their certification as of sixty (60) days later and prior to that date shall be notified in writing. Those applicators may regain certification under this section by reexamination.

(f) Any commercial applicator certified under this section shall not be required to obtain a commercial applicator's license under § 23-25-12 as long as his or her certification remains in effect.

**§ 23-25-14 Certification of private applicators – Renewal – Regulations. –**

(a) No private applicator shall purchase, acquire, possess, apply, or supervise the application of any pesticide classified for use only by or under the direct supervision of a certified applicator by EPA or by the director without first

becoming certified under this section and regulations adopted under this section, except that the pesticide purchase, acquisition, possession, or application may be made without certification if done under the direct supervision of a certified applicator.

(b) The director is authorized to adopt regulations, including but not limited to regulations:

(1) Establishing procedures for filing an application for certification and determining prior experience and qualifications of applicants, the location and nature of their operations, and setting annual expiration dates and type of credentials verifying certification;

(2) Requiring written or oral and, as necessary, other types of examinations designed to enable the applicant to demonstrate his or her knowledge, in accordance with the standards established under § 23-25-10, of pesticides and their effects and his or her competency to handle and use the restricted use and/or limited use pesticides he or she may apply in his or her normal operations or for any special uses for which he or she is being examined;

(3) Establishing an annual certification fee not to exceed twenty-five dollars (\$25.00) and requiring certified private applicators to keep records of their purchase and use of restricted use and/or limited use pesticides.

(c) If the director finds the applicant qualified, the director shall issue to him or her a certified private applicator's certificate limited to the types of operations or special uses for which he or she was examined, which shall expire one year from the date of issue or otherwise as determined by regulation, unless it has been suspended or revoked prior to the expiration by the director for cause. The director may limit the applicant to the use of certain pesticides or certain uses if deemed necessary to protect the applicant, other persons, or the environment. If a certificate or renewal is not granted as applied for, the director shall inform the applicant, in writing, of the reason for not granting it and, if requested, provide opportunity for a hearing before the director.

(d) The director shall send a renewal application to each certified private applicator at least thirty (30) days prior to the expiration date, and the director may renew any applicant's certification under the classification(s) for which the applicant is certified subject to re-examination or other requirements imposed by the director by regulation to ensure that the applicator continues to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

(e) Certified private applicators who, in any year, fail to file a renewal application even though they did not receive a mailed renewal application prior to an expiration date established by regulation shall lose their certification as of

sixty (60) days later and prior to that date shall be notified in writing. Those applicators may regain certification under this section by re-examination.

**§ 23-25-15 Licenses for dealers of restricted and limited use pesticides – Renewal – Regulations authorized – Responsibility for acts of employees. –**

(a) It shall be unlawful for any person to act as a pesticide dealer, or advertise as, or assume or act as a pesticide dealer at any time without first becoming licensed under this section and regulations adopted under this section. A license shall be required for each location or outlet located within the state from which the pesticides are distributed; provided, that any out-of-state manufacturer, registrant, or distributor who distributes the pesticides only through or to a licensed pesticide dealer is not required to obtain a license.

(b) Credentials verifying licensing shall be plainly exhibited at each location or distribution center situated within the state from which "restricted use" or "state limited use" pesticides are distributed. A manufacturer, registrant, or distributor of those pesticides who has no fixed distribution center within the state but who distributes those pesticides directly to certified applicators within the state shall obtain a license for his or her principal out-of-state location or distribution center and for each of his or her representatives who distribute those pesticides within the state.

(c) The director is authorized to adopt regulations, including but not limited to regulations:

(1) Establishing procedures for filing applications for licensing which shall provide names and full addresses of individuals who are distributors, members of principals, officers of firms, partnerships, associations, corporations or organized groups who are distributors, and the full address of each distribution center or outlet, and the name and full address of a person domiciled within the state authorized to receive and accept service of summons or legal notices of all kinds for the applicant, and other information found necessary by the director;

(2) Establishing license expiration dates and procedures for maintaining and submitting records of restricted use pesticide distribution as required under § 23-25-23;

(3) Requiring, if deemed necessary, any out-of-state distributor to obtain a permit to ship any "restricted use" or "state limited use" pesticide to any location within the state. Information required to obtain the permit shall include the full name and address of the shipper, the expected delivery date, the brand name, EPA registration number, the quantity of pesticide, the full name and address of the person receiving the shipment, and any other information found necessary by the director. No fee shall be required for the permit;

(4) Requiring a written examination designed to enable the applicant to demonstrate his or her knowledge of the types of information to be found on a pesticide label and that he or she is familiar with state and federal laws governing his or her sale, storage, and distribution of "state limited use" and "restricted use" pesticides;

(5) Establishing annual license fees of not more than thirty dollars (\$30.00) for each license issued.

(d) Provisions of this section shall not apply to a certified commercial applicator who sells pesticides only as an integral part of his or her pesticide application service when the pesticides are dispensed only through equipment used for the pesticide application or any federal, state, county, or municipal agency which provides pesticides only for its own programs.

(e) The director shall send a renewal application to each licensed pesticide dealer at least thirty (30) days prior to the expiration date and the director may renew any applicant's license subject to further examination by the director if necessary to show additional knowledge that may be required to distribute pesticides classified for "restricted use" or "state limited use".

(f) Licensed pesticide dealers who, in any year, fail to file a renewal application even though they did not receive a mailed renewal application prior to an expiration date established by regulation shall lose their dealer's license as of sixty (60) days later and prior to that date shall be notified in writing. Those dealers may regain licensing under this section by re-examination.

(g) Each licensed pesticide dealer shall be responsible for the acts of each person employed by him or her in the solicitation and sale of pesticides and all claims and recommendations for use of pesticides. The dealer's license shall be subject to denial, suspension, or revocation after a hearing before the director for any violation of this chapter whether committed by the dealer or by the dealer's officer, agent, or employee.

**§ 23-25-16 Monitoring of environment.** – (a) As part of his or her responsibility in administering this chapter, the director will carry out a program of monitoring the amounts of pesticides throughout the environment in the state. Portions of the environment to be monitored will include but will not be limited to: fresh and salt waters of the state; soils; crops intended for human or animal consumption; places where food is served commercially or in institutions and where food for human or animal consumption is handled, stored, transported, prepared, or processed; and wildlife.

(b) Results of the monitoring program will be reviewed at least annually by the pesticide relief advisory board.

(c) In carrying out the provisions of this section, the director may enter into agreements with public or private agencies to secure any technical assistance it deems necessary.

**§ 23-25-17 [Repealed]. –**

**§ 23-25-18 Unlawful acts and/or grounds for denial, suspension, or revocation of a license, permit, or certification. –** (a) The director may suspend pending inquiry for not longer than ten (10) days, and after opportunity for a hearing, deny, further suspend, revoke, or modify any provision on any license, permit, or certificate issued under this chapter if he or she finds that the applicant or holder of a license, permit, or certificate has committed any of the following acts, each of which except subdivision (15) of this subsection, is declared to be a violation of this chapter; provided, that this person shall also be subject to the penalties provided by § 23-25-28:

- (1) Made false or fraudulent claims through any medium misrepresenting the effect of pesticides or methods to be utilized;
- (2) Made a pesticide recommendation or use inconsistent with the labeling (except as allowed by rulings, interpretations, regulations, or guidelines published by EPA or, in the case of a pesticide registered under § 23-25-6(h) by the director), with the EPA or state registration for that pesticide, or in violation of the EPA or state restrictions on the use of that pesticide;
- (3) Applied known ineffective or improper pesticides;
- (4) Operated faulty or unsafe equipment;
- (5) Operated in a faulty, careless, or negligent manner;
- (6) Neglected or, after notice, refused to comply with the provisions of this chapter, the rules and regulations adopted under this chapter, or of any lawful order of the director;
- (7) Refused or neglected to keep and maintain the records required by this chapter or to make reports when and as required;
- (8) Made false or fraudulent records, invoices, or reports;
- (9) Used or supervised the use of a pesticide which is restricted to use by certified applicators without having qualified as a certified applicator or without having been under the direct supervision of a certified applicator;

(10) Used fraud or misrepresentation in making an application for or renewal of, a license, permit, or certification;

(11) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit, or certification;

(12) Aided or abetted a licensed or certified or an unlicensed or non-certified, person to evade the provisions of this chapter, conspired with that person to evade the provisions of this chapter, or allowed one's license, permit, or certification to be used by another person;

(13) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land;

(14) Impersonated any federal, state, county, or city inspector or official; or

(15) Has been subject to the final imposition of civil or criminal penalties under § 14(a) or (b) of FIFRA, 7 U.S.C. § 136l(a) or (b).

(b) It is unlawful for any person to distribute in the state any of the following:

(1) Any pesticide which is not registered pursuant to the provisions of this chapter;

(2) Any pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration; provided, that a change in the labeling or formulation of a pesticide may be made within a registration period without requiring reregistration of the product if the registration is amended to reflect the change and if that change will not violate any provision of FIFRA or this chapter;

(3) Any pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to that container and to the outside container or wrapper of the retail package if there is one through which the required information on the immediate container cannot be clearly read a label bearing the information required in this chapter and the regulations adopted under this chapter;

(4) Any pesticide which has not been colored or discolored pursuant to the provisions of § 23-25-9(b)(7) or of § 25(c)(5) of FIFRA, 7 U.S.C. § 136w(c)(5);

(5) Any pesticide which is adulterated or misbranded or any device which is misbranded;

(6) Any pesticide in containers which are unsafe due to damage.

(c) It shall be unlawful:

(1) To distribute any pesticide labeled for "restricted use" by EPA or for "state limited use" by the director to any person who is required by this chapter or regulations promulgated under this chapter to be certified to acquire, purchase, possess, or use this pesticide unless the person has a valid permit or is certified to acquire, purchase, possess, or use the kind and quantity of this pesticide or unless distribution is made to his or her agent; provided, that subject to conditions established by the director, the permit may be obtained immediately prior to distribution from any agent designated by the director;

(2) For any person to detach, alter, deface, or destroy, wholly or in part, any label or labeling provided for in this chapter or regulations adopted under this chapter, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this chapter or the regulations adopted under this chapter;

(3) For any person to use for his or her own advantage or to reveal, other than to the director or properly designated state or federal officials, or employees of the state or federal executive agencies, or to the courts of the state or of the United States in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of § 23-25-6 or any information judged by the director as containing or relating to trade secrets or commercial or financial information obtained by authority of this chapter and marked as privileged or confidential by the registrant;

(4) For any person to handle, transport, store, display, or distribute pesticides in such a manner as to endanger humans and the environment or to endanger food, feed, or any other products that may be transported, stored, displayed, or distributed with those pesticides;

(5) For any person to dispose of, discard, or store any pesticide or pesticide containers in such manner as to cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects or to pollute any water supply, waterway, or water body;

(6) For any person to refuse or otherwise fail to comply with the provisions of this chapter, the regulations adopted under this chapter, or of any lawful order of the director.

(d) The penalties provided for violations of subdivisions (1) to (5) of subsection (b) of this section shall not apply to:

(1) Any carrier while lawfully engaged in transporting a pesticide within the state if the carrier shall, upon request, permit the director to copy all records showing the transactions in and movement of the pesticides or devices;

(2) Employees of the state or the federal government while engaged in the performance of their official duties in administering Rhode Island or federal pesticide laws or regulations;

(3) The manufacturer, shipper, or other distributor of a pesticide for experimental use only; provided, that the person holds or is covered by a valid experimental use permit as provided for by § 23-25-7 or issued by EPA; provided further, that the permit covers the conduct in question.

(4) Any person who ships a substance or mixture of substances being put through tests in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties and from which the user does not expect to receive any benefit in pest control from its use.

(e) No pesticide or device shall be deemed in violation of this chapter when intended solely for export to a foreign country and when prepared or packed according to the specifications or directions of the purchaser. If not exported, all provisions of this chapter shall apply.

**§ 23-25-19 Storing and disposal of pesticides and pesticide containers. –**

No person shall transport, store, or dispose of any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, beneficial insects or to pollute any waterway or water body in a way harmful to any wildlife in the waterway or waterbody. The director shall promulgate rules and regulations governing the storing and disposal of those pesticides or pesticide containers. These standards shall be consistent with any regulations promulgated pursuant to § 19 of FIFRA, 7 U.S.C. § 136q, or any acts cited therein.

**§ 23-25-20 Enforcement. –** (a) The sampling and examination of pesticides or devices shall be made under the direction of the director for the purpose of determining whether they comply with the requirements of this chapter. The director, or his or her designated agent, is authorized, upon presentation of proper identification, to enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to pesticides or devices packaged and labeled for distribution and to samples of any containers or labeling for those pesticides and devices. If the director or his or her agent obtains any samples, prior to leaving the premises, he or she shall give to the owner or person in charge a receipt describing the samples obtained and, if requested, a portion of each sample equal in volume or weight to the portion retained. If an analysis is made of those samples, a copy of the results of the



analysis shall be furnished promptly to the owner or person in charge. If it appears from the examinations that a pesticide or device fails to comply with the provisions of this chapter or regulations adopted under this chapter and the director contemplates instituting criminal proceedings against any person, the director shall cause appropriate notice to be given to that person. Any person notified shall be given an opportunity within a reasonable time to present his or her views, either orally or in writing, with regard to the contemplated proceedings. If after this, in the opinion of the director, it appears that the provisions of the chapter or regulations adopted under this chapter have been violated by that person, the director shall refer a copy of the results of the analysis or the examination of the pesticide or device to the prosecuting attorney for the county in which the violation occurred.

(b) For the purpose of carrying out the provisions of this chapter, the director or his or her designated agent may enter upon any public or private premises at reasonable times in order to:

(1) Have access for the purpose of inspecting any equipment used in applying pesticides;

(2) Inspect and take samples from lands actually or reported to be exposed to pesticides;

(3) Inspect storage or disposal areas;

(4) Inspect or investigate complaints of injury to humans or land;

(5) Sample pesticides being applied or to be applied;

(6) Observe the use and application of any pesticide; and

(7) Administer to or take from any person an oath, affirmation, or affidavit whenever that oath, affirmation, or affidavit is for use in any prosecution or proceeding under or in the enforcement of this chapter. That document, when certified by the party taking the statement, shall then be admissible in any administrative proceeding without further proof of the identity or authority of the agent.

(c) Should the director be denied access to any land where the access was sought for the purposes set forth in this chapter, he or she may apply to any court of competent jurisdiction for a search warrant authorizing access to the land for those purposes. The court may, upon application, issue the search warrant for the purpose requested.

(d) The director, with or without the aid and advice of the county or district attorney, is charged with the duty of enforcing the requirements of this chapter

and any rules or regulations issued under this chapter. In the event a county or district attorney refuses to act on behalf of the director, the attorney general may act.

(e) The director may bring an action to enjoin the violation or threatened violation of any provision of this chapter or any regulations made pursuant to this chapter in a court of competent jurisdiction of the county in which the violation occurs or is about to occur.

(f) Nothing in this chapter shall be construed as requiring the director to report minor violations of this chapter for prosecution or for the institution of condemnation proceedings when the director believes that the public interest will be served best by a suitable notice of warning in writing.

**§ 23-25-21 "Stop sale, use, or removal" order.** – When the director has reasonable cause to believe a pesticide or device is being distributed, stored, transported, or used in violation of any of the provisions of this chapter, or of any prescribed regulations under this chapter, the director may issue and serve a written "stop sale, use, or removal" order upon the owner or custodian of this pesticide or device. If the owner or custodian is not available for service of the order upon him or her, the director may attach the order to the pesticide or device and notify the owner or custodian and the registrant. The pesticide or device shall not be sold, used, or removed until the provisions of this chapter have been complied with and the pesticide or device has been released in writing under conditions specified by the director or the violation has been otherwise disposed of as provided in this chapter by a court of competent jurisdiction.

**§ 23-25-22 Judicial action after "stop sale, use, or removal" order.** – (a) After service of a "stop sale, use, or removal" order is made upon any person, either that person, the registrant, or the director may file an action in a superior court in the county in which a violation of this chapter or regulations adopted under this chapter is alleged to have occurred for an adjudication of the alleged violation. The court in that action may issue temporary or permanent injunctions, mandatory or restraining, and any intermediate orders as it deems necessary or advisable. The court may order condemnation of any pesticide or device which does not meet the requirements of this chapter or regulations adopted under this chapter.

(b) If the pesticide or device is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court directs and if the pesticide or device is sold, the proceeds, less costs including legal cost, shall be paid to the general treasury as provided in § 23-25-32; provided, that the pesticide or device shall not be sold contrary to the provisions of this chapter or regulations adopted under this chapter. Upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be disposed

of unlawfully, the court may direct that the pesticide or device be delivered to the its owner for relabeling, reprocessing, removal from the state, or otherwise bringing the product into compliance.

(c) When a decree of condemnation is entered against the pesticide or device, court costs, fees, storage, and other proper expenses shall be awarded against the person, if any, appearing as claimant of the pesticide.

**§ 23-25-23 Records.** – (a) Any person issued a pesticide dealer's license under the provisions of this chapter shall be required by the director to keep accurate records containing the following information:

(1) The delivery, movement, or holding of any restricted use or state limited use pesticide, including the quantity;

(2) The date of shipment and receipt;

(3) The name of consignor and name and certification number of the consignee; and

(4) Any other information necessary for the enforcement of this chapter as prescribed in regulations adopted by the director.

(b) The director or his or her agent shall have access to the records at any reasonable time to copy or make copies of the records for the purpose of carrying out the provisions of this chapter. Unless required for the enforcement of this chapter, that information shall be confidential and, if summarized, shall not identify an individual person.

(c) The director shall require certified applicators to maintain records with respect to applications of "restricted use" and "state limited use" pesticides and may require those records on all pesticides. Any relevant information that the director may deem necessary may be specified by regulation. The records shall be kept for a period of at least two (2) years from the date of the application to which the records refer, and the director shall, upon a request in writing, immediately be furnished with a copy of the records by the certified applicator.

(d) The director may require licensed commercial applicators to maintain records with respect to applications of all pesticides. Any relevant information that the director may deem necessary may be specified by regulation. The records shall be kept for a period of two (2) years from the date of the application to which the records refer, and the director shall, upon a request in writing, immediately be furnished with a copy of the records by the licensed commercial applicator.

**§ 23-25-24 Cooperation with other agencies.** – The director may cooperate, receive grants-in-aid, and enter into cooperative agreements or contracts with any agency of the federal government, of this state and its subdivisions, or with any agency of another state, in order to:

- (1) Secure uniformity of regulations;
- (2) Enter into cooperative agreements with the EPA to register pesticides under the authority of this chapter and FIFRA;
- (3) Cooperate in the enforcement of the federal pesticide control laws through the use of state and/or federal personnel and facilities to implement cooperative enforcement programs, including, but not limited to, the registration and inspection of establishments;
- (4) Develop and administer state plans for training and for certification of applicators consistent with federal standards;
- (5) Contract for training with other agencies for the purpose of training applicators to be certified or licensed;
- (6) Contract for monitoring pesticides for the national plan;
- (7) Prepare, submit, and maintain state plans to meet federal certification standards, as provided for in § 4 of FIFRA, 7 U.S.C. § 136i(a) to (c); and
- (8) Regulate certified and licensed applicators.

**§ 23-25-25 Publication of information.** – The director may publish, at least annually, and in any form that he or she may deem proper, results of analyses based on official samples as compared with the analyses guaranteed and information concerning the distribution of pesticides; provided, that individual distribution information shall not be a public record. The director, in cooperation with the land grant universities or other educational institutions, may publish information and conduct short courses of instruction in the areas of knowledge required in this chapter.

**§ 23-25-26 Reports of pesticide accidents or incidents.** – The director may by regulation require the reporting of significant accidents or incidents to a designated state agency and/or the EPA.

**§ 23-25-27 Subpoenas.** – The director may issue subpoenas to compel the attendance of witnesses and/or production of books, documents, and records in the state in any hearing affecting the authority or privilege granted by license, registration, certification, or permit issued under the provisions of this chapter.

**§ 23-25-28 Penalties.** – (a) *Civil penalties.* (1) Any person who violates any provision of this chapter may be assessed a civil penalty of not more than ten thousand dollars (\$10,000) for each offense. In addition to any civil penalty assessed in this subsection, the director may ban businesses or commercial applicators from providing pest control services to the state for a period of up to five (5) years when the director finds the business or commercial applicator has violated a provision of this chapter or the rules or regulations promulgated under this chapter with regard to the mixing or application of pesticides.

(2) No penalty shall be assessed unless the person charged shall have been notified and given opportunity for a hearing before the director on the charge. In making the assessment, the director shall consider the size of the business, the ability of the person charged to continue in business, and the gravity of the violation.

(b) *Criminal penalties.* (1) Any person who knowingly violates any provision of this chapter shall be guilty of a misdemeanor and shall, on conviction, be fined not more than twenty-five thousand dollars (\$25,000) or imprisoned for not more than sixty (60) days, or both.

(2) Any person who, with intent to defraud, uses or reveals information relative to formulas of products acquired under authority of § 23-25-6 shall be fined not more than ten thousand dollars (\$10,000), or imprisoned for not more than three (3) years, or both.

**§ 23-25-29 Protection of trade secrets and other information.** – (a) In submitting data required by this chapter, the applicant may:

(1) Clearly mark any portion of it which in his or her opinion are trade secrets or commercial or financial information; and

(2) Submit that marked material separately from other material required to be submitted under this chapter.

(b) Notwithstanding any other provision of this chapter, the director shall not make public information which in his or her judgment contains or relates to trade secrets or commercial or financial information obtained from a person as privileged or confidential, except that, when necessary to carry out the provisions of this chapter, information relating to formulas of products acquired by authorization of this chapter may be revealed to any state or federal agency consulted, or as required by law, and may be revealed at a public hearing or in findings of fact issued by the director.

(c) If the director proposes to release for inspection information which the applicant or registrant believes to be protected from disclosure under subsection (b) of this section, he or she shall notify the applicant or registrant in writing by

certified mail. The director shall not after this make available for inspection that data until thirty (30) days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may institute an action in an appropriate court for a declaratory judgment as to whether the information is subject to protection under subsection (b) of this section.

**§ 23-25-30 Delegation of director's duties.** – The functions vested in the director may be delegated by the director to any employees of the department of environmental management as may be found desirable or necessary from time to time to carry out the responsibilities of this chapter.

**§ 23-25-31 Reciprocal agreements.** – (a) The director may waive all or part of the examination requirements prescribed in §§ 23-25-12, 23-25-13 and 23-25-14 on a reciprocal basis with any other state which has substantially the same examination requirements and standards of competency, and for federal employees qualified under substantially the same examination requirements and standards of competency.

(b) The director is authorized to adopt regulations, including, but not limited to, regulations establishing procedures for establishing and implementing reciprocal agreements, providing verifying credentials to out-of-state applicators, and assuring compliance.

**§ 23-25-32 Budget – Receipt and disposition of funds.** – (a) The director shall include in the annual budget sums of money necessary: to carry out the pesticide control program as required by this chapter and the EPA approved plan for certifying applicators, for the registration of pesticides, for office and other expenses including travel necessary for inspection and enforcement, and to employ sufficient employees to effectively carry out the provisions of this chapter.

(b) All money received by the director under the provisions of this chapter, 23-25-12(b)(2), 23-25-13(b)(3), 23-25-14(b)(3), and 23-25-15(c)(5) shall be deposited into the general treasury as general revenues.

(c) All money received by the director as federal grants-in-aid, contracts, and the like, to assist the state in carrying out a certification program shall be deposited into the general treasury to the credit of a special fund to be used only for carrying out the provisions of this chapter.

(d) All money appropriated for the pesticide enforcement and certification program shall be made available immediately and are specifically appropriated to the director for the following purposes:

(1) To support the pesticide enforcement and certification program;

(2) For payment of ancillary services, personnel, and equipment incurred to carry out the purposes of pesticide enforcement and certification.

**§ 23-25-33 Severability.** – If any provisions of this chapter are declared unconstitutional or the applicability of these provisions to any person or circumstance is held invalid, the constitutionality of the remainder of this chapter and applicability of this chapter to other persons and circumstances shall not be affected by this invalidity.

**§ 23-25-34 Prior liability.** – The enactment of this chapter shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on May 28, 1976.

**§ 23-25-35 Repeal of inconsistent acts.** – Jurisdiction in all matters pertaining to the registration, sale, distribution, transportation, storage, use and application, disposal of pesticides and devices, and licensing and certification of applicators is, by this chapter, vested exclusively in the director, and all acts and parts of acts inconsistent with this chapter are expressly repealed.

**§ 23-25-36 Protective clothing and equipment.** – The director may promulgate rules and regulations requiring the use of protective clothing and equipment by any person operating equipment for the application of any pesticide, insecticide, fungicide, herbicide, and rodenticide.

**§ 23-25-37 Pesticide applications and notification of pesticide applications at schools.** – (a) The department of environmental management and the department of health shall develop regulations as follows: (1) to restrict the use of hazardous pesticides in schools, pre-schools and child care centers in Rhode Island; (2) for the promotion and implementation of integrated pest management (IPM) as defined in § 23-25.2-2; (3) to cover situations where an emergency application of pesticide must be conducted to eliminate an immediate threat to human health, and establish reporting requirements for these emergency applications.

(b) On and after July 1, 2001, no person other than a licensed or certified commercial applicator as defined in § 23-25-4, shall apply pesticide within any building or on the grounds of any school. This section shall not apply in the case of an emergency application of pesticide to eliminate an immediate threat to human health, where it is impractical to obtain the services of any such applicator; provided the emergency application does not involve a restricted use or state limited use pesticide. For purposes of this section, "emergency" means a sudden need to mitigate or eliminate a pest which threatens the health or safety of a student or staff member.

(c) On and after July 1, 2002, at the beginning of each school year, each local school authority shall provide the staff of each school and the parents or guardians of each child enrolled in each school with a written statement of the committee's policy on pesticide application on school property and a description of any pesticide applications made at the school during the previous school year.

(2) The statement and description shall be provided to the parents or guardians of any child who transfers to a school during the school year. The statement shall: (i) indicate that the staff, parents, or guardians may register for prior notice of pesticide applications at the school; and (ii) describe the emergency notification procedures provided for in this section. Notice of any modification to the pesticide application policy shall be sent to any person who registers for notice under this section.

(d) On and after July 1, 2002, parents or guardians of children in any school and school staff may register for prior notice of pesticide application at their school. Each school shall maintain a registry of persons requesting the notice. Prior to providing for any application of pesticide within any building or on the grounds of any school, the local school authority shall provide for the distribution of notice to parents and guardians who have registered for prior notice under this section, such that the notice is received no later than twenty-four (24) hours prior to the application. Notice shall be given by any means practicable to school staff who have registered for the notice. Notice under this subsection shall include: (1) the common or trade name and the name of the active ingredient; (2) the EPA registration number as listed on the pesticide label; (3) the target pest; (4) the exact location of the application on the school property; (5) the date of the application; and (6) the name of the school administrator, or a designee, who may be contacted for further information.

(e) On and after July 1, 2003, no application of pesticide may be made in any building or on the grounds of any school during regular school hours or during planned activities at any school. No child shall enter an area where the application has been made until it is safe to do so according to the provisions on the pesticide label. This section shall not apply to the use of germicides, disinfectants, sanitizers, deodorizers, antimicrobial agents, insecticidal gels, non-volatile insect or rodent bait in a tamper resistant container, insect repellants or the application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under 40 CFR part 152.25.

(f) On and after July 1, 2002, a local school authority may make an emergency application of pesticide without prior notice under this section in the event of an immediate threat to human health, provided the board provides for notice, by any means practicable, on or before the day that the application is to take place, to any person who has requested prior notice under this section.



(g) On and after July 1, 2002, notice of any pesticide application at a school shall be given, by any means practicable, to the parents or guardians of any child enrolled at the school and to the staff of the school not later than one week after the application. The notice shall include: (1) the common or trade name and the name of the active ingredient; (2) the EPA registration number as listed on the pesticide label; (3) the target pest; (4) the exact location of the application on the school property; (5) the date of the application; and (6) the name of the school administrator, or a designee, who may be contacted for further information. A copy of the record of each pesticide application at a school shall be maintained at the school for a period of five (5) years.

(h) Not later than July 1, 2002, the department of environmental management and the department of health shall jointly establish a task force which shall specifically address methods to promote public education and professional training about pesticides, their potential health effects and IPM least toxic alternatives, and for evaluation and analysis of current pest control practices at school and child care facilities.

**§ 23-25-38 Pesticide applications and notification of pesticide applications at pre-schools and child care centers.** – (a) On and after July 1, 2003, no application of pesticide may be made by any person other than a certified or licensed commercial applicator as defined in § 23-25-4 in any building or on the grounds of any pre-school, child day care center, group family day care home or family day care home, during regular business hours. No child enrolled at such center or home may enter an area where pesticides have been applied until it is safe to do so according to the provisions on the pesticide label. For purposes of this section, emergency shall mean a sudden need to mitigate or eliminate a pest which threatens the health or safety of a student or staff member. This section shall not apply to the use of germicides, disinfectants, sanitizers, deodorizers, antimicrobial agents, insecticidal gels, non-volatile insect or rodent bait in a tamper resistant container, insect repellants, insecticidal disks, or the application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under 40 CFR part 152.25.

(b) On and after July 1, 2002, notice of any pesticide application at any such center or home shall be given, by any means practicable, to the parents or guardians of any child enrolled at the center or home not later than twenty-four (24) hours before the application. The notice shall include: (1) the common or trade name and the name of the active ingredient; (2) the EPA registration number as listed on the pesticide label; (3) the target pest; (4) the exact location of the application on the property; (5) the date of the application; and (6) the name of the pre-school or child care center owner/operator or their designee.